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AFRICAN SLAVE TRADE

THE

SECRET PURPOSE OF THE INSURGENTS TO REVIVE IT.

NO TREATY STIPULATIONS AGAINST THE SLAVE TRADE TO BE ENTERED INTO
WITH THE EUROPEAN POWERS.

JUDAH P. BENJAMIN'S

INTERCEPTED INSTRUCTIONS

TO L. Q. C. LAMAR,
STYLED COMMISSIONER, ETC.

PHILADELPHIA:

C. SHERMAN, SON & CO., PRINTERS.

1868.

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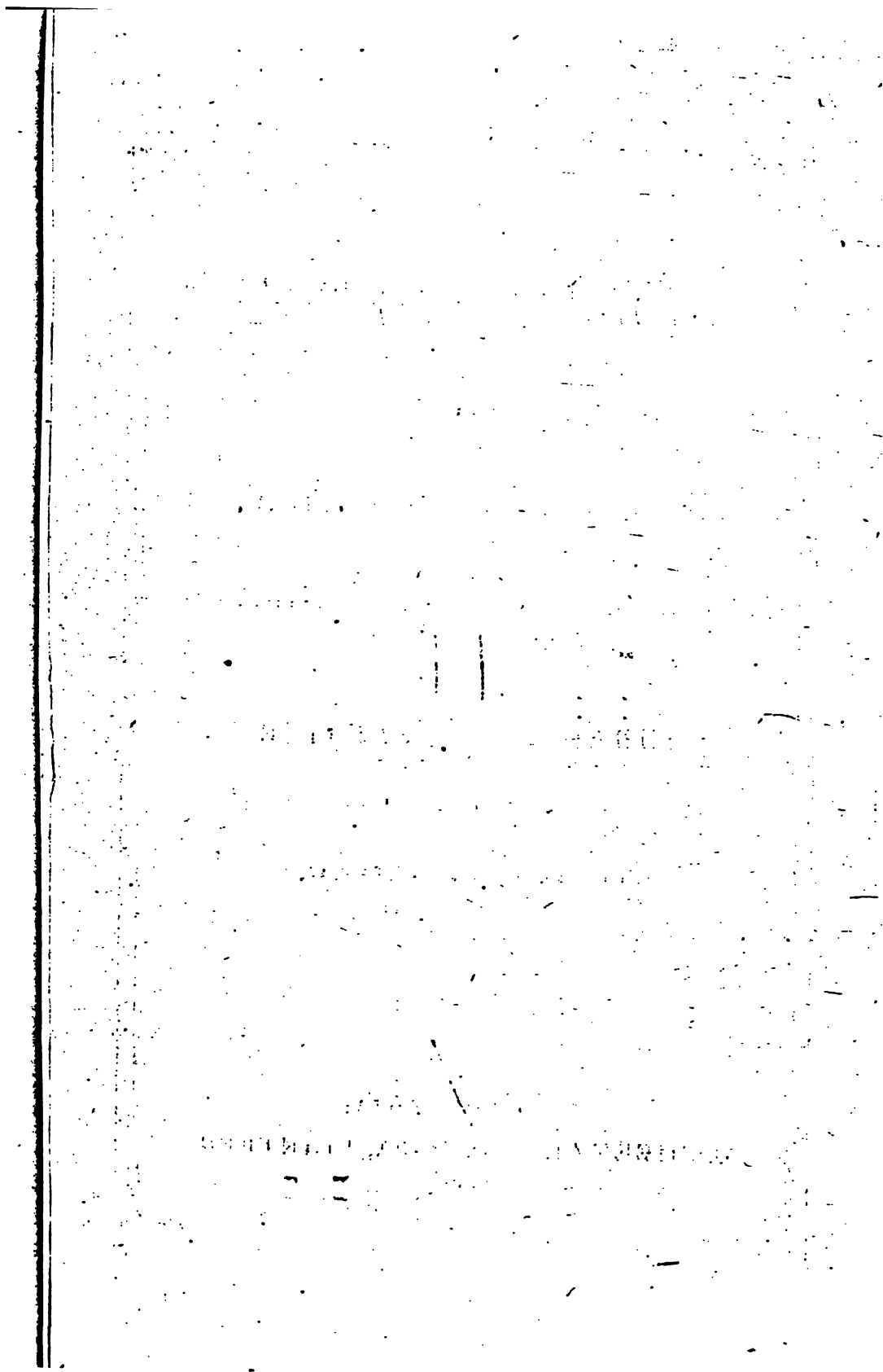
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1868, Nov. 16.

G. D. Garrison

P R E F A C E.

THIS pamphlet is a reproduction of some recent editorials of the *National Intelligencer*, the only addition made to them consisting in the headings which it was thought advisable to prefix, as serving, like the buoys placed in a channel, to mark the drift of the argument, and to facilitate the seizing of the points established by it. Their being put into the present shape, at once less perishable than that in which they first appeared and admitting of far wider diffusion, is owing to the high estimate of their value formed by one for whom (ever since the day when we had a JACKSON to deal with the fruits of Calhoun philosophy, in their material developments and positive manifestations) NULLIFICATION, with all subsequent products of the same fungus-breeding brain, have been objects of the closest attention and most earnest solicitude. Thus prepared, so far as his capacity permits, to estimate these pieces at their true value, he has not hesitated to recommend them as most worthy the attention of every one, whether among ourselves or in foreign countries, who, loving truth and justice for their own sakes, is actuated by a sincere desire to arrive at a correct understanding—in its causes, in its essential nature, and in the motives and merits of its authors—of the terrific convulsion which our body politic is now exhibiting to the gaze of mankind.

The tone in which the topic is treated will be found highly attractive, in perfect keeping as it is with the character of that venerable member of the Press; which, coeval, it may be said, with THE CONSTITUTION, has identified itself with the ideal of what is due to THE LIBERTY OF THE PRESS from the class upon whom most immediately depends an undisturbed and unquestioning recognition of the rightfulness of its title to that hold upon

the affections of the well-wisher to mankind which has been so earnestly claimed for it by the most illustrious devotees to freedom.

As an appropriate introduction to these pieces from the *National Intelligencer*, the compiler prefixes to them a picture of the conspirators, taken from a speech delivered in Congress during its last session by THE HON. HORACE MAYNARD, that true representative and representative man of that noble constituency whose fidelity to the Union through the terrific ordeal by which it has been tested has added one more to the list of immortal geographical names; making EAST TENNESSEE imperishable in our country's history—in the history of freedom, for the two are identical—as the synonyme forever with all that is most glorious in patriotic devotedness and heroic fortitude.

Extract from the Speech of the Hon. Horace Maynard.

It is more than two years since the secession of South Carolina was announced to this House—two years of gloom to the country, and of horrible darkness to the South. Unlike those who, on principle, shut their eyes and turn their backs upon the past, I shall attempt to penetrate it, and study it for the benefit of my immediate constituents, and from their point of view.

One of the most obvious and striking facts is the utter falsehood of those who inaugurated this terrible reign of anarchy and misrule—falsehood in recounting the past, falsehood in expounding the present, and falsehood in prognosticating the future. I cannot forbear repeating a remark made to me in this city on the 5th of March, 1861, by a gentleman then and for many years a member of this House from the State of Virginia, that secession was nothing but the effect of a monstrous system of lying. How these men falsified their own conduct and motives is pretty well understood. How they maligned the great body of the Northern people ought to be equally clear: not only the party who, by their own contrivance, had accidentally succeeded to the administration of the Federal Government; but also the opponents of that party, which opponents, these falsifiers told us, had promised them to fight for them in case of war. They knew, or ought to have known, that the very men who had been most ready to make concessions for the preservation of the Union, would, of all others, fight the hardest to preserve it when it was manifest that nothing but fighting could

save it. They knew, or ought to have known, that the Northern men who would consent, on any terms, to the disruption and denationalization of their country, were too contemptible in numbers and too infamous in character to influence results—that their proportion to the population was not a hundredth part as great as that of Judas Iscariot to his fellow-disciples, men and women all told.

Much of their falsehood may charitably be imputed to their ignorance. For never was a set of men, who arrogated the title of statesmen, and who had so long held the position of statesmen, that knew so little of the people, or of the resources of the country they had been concerned in governing. Hence, when they told us the Northern men were a race of cowards, and would not fight, they probably believed it; when they assured us that one Southern man was the equal in fight of five Yankees, or abolitionists, as they contemptuously and indiscriminately call all Northern troops, they may have believed that; when they declared that all we of the South had to do was to show a bold front, and the North would back down, their past experience may have led them to believe this also; when they urged forward the volunteers, with the prospect of seizing Washington in a few weeks, and thence passing swiftly on through Philadelphia, to plunder the vaults of Wall Street, and the stores of Broadway, it is by no means certain that they did not indulge in such delusions; when they asserted, with the late Secretary of the Interior, "that the North is dependent on the South for its prosperity, the South is not dependent on the North for anything necessary to her material welfare," it is very likely that they had heard the same thing repeated so often, without contradiction, as to suppose it to be true; when they told us that a suspension of Southern trade and patronage with the North would be attended with starvation and bread riots in Northern cities, they little thought that in less than twelve months they themselves would be resorting to every dirty shift and contemptible device to resume as much of the old trade as would keep them from nakedness and starvation; when they proclaimed that these same Yankees "are great on cheap devices for manufacturing; on building and working steam-engines, and all sorts of mechanical contrivances; on organizing magnificent hotels on thievish principles; making wooden clocks and wooden nutmegs, and notions generally; but when you come to statesmanship and generalship—the capacity for empire—that's beyond their bend;"* it is not clear that a blind self-esteem and an equally blind contempt for their neighbors did not combine to give credit in their minds to the assertion; when they cried **COTTON IS KING**, and

* Richmond Whig, July 12, 1861.

would force recognition and obedience, not only from their servile fellow-countrymen who depended for a livelihood upon their "talent for base mechanics," but from the rulers of the civilized world, they conceived themselves but uttering one of the first principles of sound political economy. Indeed, the ignorance of this lordly and insolent oligarchy is equalled only by its ineffable baseness.

I say this OLIGARCHY, for it is known that *the men who concocted, and who do now control the thing they call the Southern Confederacy, are not as numerous, in point of fact, as the figures on a chess-board.* It is eminently a close corporation, and was so intended to be. The men who compose it are, for the most part, the same clique well known for years in this city as claiming exclusive jurisdiction over the Democratic party, and as assuming such absolute authority over "the South," that even now a great many people suppose there are no other persons of consequence in that part of the country. The late Mr. Douglas, the great leader of the Northern Democracy, understood them thoroughly, and ceased not until the close of his life to make war upon them. There are those within the reach of my voice, who also knew them, and can testify to their utter perfidy; who have been the victims of their want of principle, and whose self-respect has suffered from their insolent and overbearing demeanor. *They, like a certain school of ancient philosophers, had two sets of principles or doctrines, an exoteric and an esoteric—one for outsiders, the other for themselves; the one was "Democratic principles" for the Democratic party, the other was their own and without a name.* No Northern man was ever admitted to their confidence, and no Southern man, unless it became necessary to keep up their numbers; and then not until he was thoroughly known by them, and known to be thoroughly corrupt. Some Northern men and many Southern men were, after a fashion, petted and patronized by them, as a gentleman throws from his table a bone or a choice bit to a favorite dog; and they imagined they were conferring a great favor thereby, which could be requited only by the abject servility of the dog. To hesitate, to doubt, to hold back, to stop, was to call down a storm of wrath that few men had the nerve to encounter, and still fewer the strength to withstand. Not only in the political circles, but in social life, their rule was inexorable, their tyranny absolute. God be thanked for the brave men who had the courage to meet them and bid them defiance, first at Charleston in April, 1860, and then at Baltimore in June! To them is due the credit of declaring war against this intolerable despotism.

THE SOUTHERN REBELLION

AND

THE FOREIGN SLAVE TRADE.

THE following despatch, addressed by Mr. Judah P. Benjamin, styling himself the "Secretary of State" for the "Confederate States," to Mr. L. Q. C. Lamar, styled "Commissioner, &c., St. Petersburg, Russia," was intercepted by the National Government in the month of March last, and communicated to the National Intelligencer for publication. The despatch relates to the Foreign Slave Trade, and is as follows:

[No. 1.]

CONFEDERATE STATES OF AMERICA,
Department of State, Richmond, January 15, 1863.

SIR: It has been suggested to this Government, from a source of unquestioned authenticity, that, after the recognition of our independence by the European Powers, an expectation is generally entertained by them that in our treaties of amity and commerce a clause will be introduced making stipulations against the African slave trade. It is even thought that neutral Powers may be inclined to insist upon the insertion of such a clause as a *sine qua non*.

You are well aware how firmly fixed in our Constitution is the policy of this Confederacy against the opening of that trade, but we are informed that false and insidious suggestions have been made by the agents of the United States at European Courts of our intention to change our constitution as soon as peace is restored, and of authorizing the importation of slaves from Africa. If, therefore, you should find, in your intercourse with the Cabinet to which you are accredited, that any such impressions are

entertained, you will use every proper effort to remove them, and if an attempt is made to introduce into any treaty which you may be charged with negotiating stipulations on the subject just mentioned, you will assume, in behalf of your Government, the position which, under the direction of the President, I now proceed to develop.

The Constitution of the Confederate States is an agreement made between independent States. By its terms all the powers of Government are separated into classes as follows, viz. :

1st. Such powers as the States delegate to the General Government.

2d. Such powers as the States agree to refrain from exercising, although they do not delegate them to the General Government.

3d. Such powers as the States, without delegating them to the General Government, thought proper to exercise by direct agreement between themselves contained in the Constitution.

4th. All remaining powers of sovereignty, which not being delegated to the Confederate States by the Constitution nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof.

On the formation of the Constitution the States thought proper to prevent all possible future discussions on the subject of slavery by the direct exercise of their own power, and delegated no authority to the Confederate Government, save immaterial exceptions, presently to be noticed.

Especially in relation to the importation of African negroes was it deemed important by the States that no power to permit it should exist in the Confederate Government. The States, by the Constitution (which is a treaty between themselves of the most solemn character that States can make), unanimously stipulated "that the importation of negroes of the African race from any foreign country other than the Slaveholding States or Territories of the United States of America is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same."—Art. 1, sec. 9, par. 1.)

It will thus be seen that no power is delegated to the Confederate Government over this subject, but that it is included in

the third class above referred to, of powers exercised directly by the States.

It is true that the *duty* is imposed on *Congress* to pass laws and render effectual the prohibition above quoted. But this very imposition of a duty on *Congress* is the strongest proof of the absence of power in the President and Senate alone, who are vested with authority to make treaties. In a word, as the only provision on the subject directs the two branches of the Legislative Department, in connection with the President, to pass *laws* on this subject, it is out of the power of the President aided by one branch of the Legislative Department to control the same subject by treaties; for there is not only an absence of express delegation of authority to the treaty-making power, which alone would suffice to prevent the exercise of such authority, but there is the implied prohibition resulting from the fact that all duty on the subject is imposed on a different branch of the Government.

I need scarcely enlarge upon the familiar principle that authority expressly delegated to Congress cannot be assumed in our Government by the treaty-making power. The authority to levy and collect taxes, to coin money, to declare war, &c. &c., are ready examples, and you can be at no loss for argument or illustration in support of so well-recognized a principle.

The view above expressed is further enforced by the clause in the Constitution which follows immediately that which has already been quoted. The second paragraph of the same section provides that "Congress shall also have power to prohibit the introduction of slaves from any State not a member of or Territory not belonging to this Confederacy." Here there is no direct exercise of power by the States which formed our Constitution, but an express delegation to Congress. It is thus seen that while the States were willing to trust Congress with the power to prohibit the introduction of African slaves from the United States, they were not willing to trust it with the power of prohibiting their introduction from any other quarter, but determined to insure the execution of their will by a direct interposition of their (our) power.

Moreover, any attempt on the part of the treaty-making power of this Government to prohibit the African slave trade, in addition to insuperable objections above suggested, would leave

open the implication that the same power has authority to permit such introduction. No such implication can be sanctioned by us. This Government unequivocally and absolutely denies its possession of any power whatever over the subject, and cannot entertain any proposition in relation to it.

While it is totally beneath the dignity of this Government to give assurances for the purpose of vindicating itself from any unworthy suspicions of its good faith on this subject that may be disseminated by the agents of the United States, it may not be improper that you should point out the superior efficacy of our constitutional provision to any treaty stipulations we could make. The Constitution is itself a treaty between the States of such binding force that it cannot be changed or abrogated without the deliberate and concurrent action of nine out of the thirteen States that compose the Confederacy. A treaty might be abrogated by a party temporarily in power in our country, at the sole risk of disturbing amicable relations with a foreign power. The Constitution, unless by approach to unanimity, could not be changed without the destruction of this Government itself; and even should it be possible hereafter to procure the consent of the number of States necessary to change it, the forms and delays designedly interposed by the framers to check rash innovations would give ample time for the most mature deliberation and for strenuous resistance on the part of those opposed to such change.

After all it is scarcely the part of wisdom to attempt to impose restraint on the actions and conduct of men for all future time. The policy of the Confederacy is as fixed and immutable on this subject as the imperfection of human nature permits human resolve to be. No additional agreements, treaties, or stipulations can commit these States to the prohibition of the African slave trade with more binding efficacy than those they have themselves devised. A just and generous confidence in their good faith on this subject exhibited by friendly Powers will be far more efficacious than persistent efforts to induce this Government to assume the exercise of powers which it does not possess, and to bind the Confederacy by ties which would have no constitutional validity. We trust, therefore, that no unnecessary discussions on this matter will be introduced into your

negotiations. If, unfortunately, this reliance should prove ill-founded, you will decline continuing negotiations on your side, and transfer them to us at home, where, in such event, they could be conducted with greater facility and advantage, under the direct supervision of the President.

With great respect, your obedient servant,

J. P. BENJAMIN,

Secretary of State.

Hon. L. Q. C. LAMAR,

Commissioner, &c. &c., St. Petersburg, Russia.

The despatch appeared in the National Intelligencer of March 31st, and the editors of that journal accompany it with the following comments:

The Authenticity of the Despatch Vouched for by the Editors.

Two or three months ago we were called to lay before our readers, certain despatches emanating from the insurgent authorities at Richmond, and addressed to their diplomatic, military, and financial agents in Europe. It was from the publicity thus given to these papers, that the parties to this correspondence were placed in communication with each other.

We to-day perform a similar service for the ingenious gentleman who styles himself the "Secretary of State" of the Confederate States, by placing before the public a despatch recently addressed by Mr. JUDAH P. BENJAMIN to the Hon. L. Q. C. LAMAR, a former Representative in the Congress of the United States, from the State of Mississippi, but who now, it seems, bears the title of "Commissioner, &c., St. Petersburg, Russia." This despatch, we may add, is drawn entirely in the handwriting of Mr. Benjamin, with which we are familiar, and leaves us to infer that "copying clerks" are dispensed with in Richmond, either from considerations of economy in the present straitened condition of the "Southern Confederacy," or because Mr. Benjamin, when writing on *very* delicate subjects, deems it prudent to conceal the secrets of his diplomacy even from the official subordinates with whom, on other topics, he shares his confidence.

The Secrecy with which the Paper was Prepared and its Obvious Reason.

We perhaps do not risk much when we assign the latter as at least one of the reasons which induced Mr. Benjamin to practise secrecy and concealment in penning this despatch: for the reader will be surprised to perceive that it is a paper in which Mr. Benjamin seeks to show why the "Confederate Government," even at the price of being recognized by foreign powers, *cannot bind itself by entering into any treaty stipulations against the African slave trade.*

We can well understand the sensibility confessed by Mr. Benjamin, in behalf of his associates, at the suggestion likely to be raised in Europe by the pregnant negative which he bids the Confederate Commissioner to lay upon any proposed stipulations against a traffic which the whole civilized world agrees to stigmatize as infamous, but respecting which, he says, the "Confederate Government" can enter into no treaty engagements with foreign Powers for the purpose of precluding its exercise. He therefore very naturally says, speaking in the name of his associates:

"We trust that no unnecessary discussions on this matter will be introduced into your negotiations. If, unfortunately, this reliance should prove ill-founded, you will decline continuing negotiations on your side, and transfer them to us at home, where, in such event, they could be conducted with greater facility and advantage, under the direct supervision of the President."

If those who are familiar with the motives which prompted the leaders of the secession revolt, to embark in their ill-fated enterprise against the Government of the United States, cannot confess to any surprise at finding these leaders unwilling to assume any obligations towards foreign Governments, not to revive and re-establish the foreign slave trade, they will at least be surprised at the metaphysical reasons and wire-drawn discriminations assigned by Mr. Benjamin in exclusion of any such engagements.

The Argument of Mr. Benjamin.

Should foreign Governments insist on stipulations under this

head as a *sine qua non* to the formation of a treaty of amity and commerce, he instructs Mr. Lamar (and we suppose similar instructions have been addressed to the other Commissioners in waiting on the European Powers) to parry the proposition by urging that the Confederate Government has no power over this subject, as it falls, he says, within the jurisdiction of that class of "powers" which, according to the terms of the Confederate Constitution, "the States, without delegating them to the General Government, thought proper to exercise by direct agreement between themselves contained in the Constitution." That is: the States adhering to the Confederate Constitution have, in the act of acceding to that instrument, bound themselves by a treaty established among themselves not to revive the slave trade, and therefore it would be unconstitutional as well as superfluous for the treaty-making power of the Confederate States to enter into any engagements under this head with foreign nations! The sophistry of this logic is exceeded only by its subtlety; but, unfortunately for Mr. Benjamin, his associates have already furnished foreign Governments with a sufficient argument against the tenability of his position, even when reasoning from his own premises, as attempted to be found in the Confederate Constitution.

Mr. Benjamin admits that, under that constitution, the Congress of the Confederate States "is required to pass such laws as shall effectually prevent the foreign slave trade," but argues that "this very imposition of a duty on *Congress* is the strongest proof of the absence of power in the President and Senate alone, who are vested with authority to make treaties." "In a word," he proceeds to say, "as the only provision on the subject directs the two branches of the Legislative Department, in connection with the President, to pass *laws* on this subject, it is out of the power of the President, aided by one branch of the Legislative Department, to control the same subject by treaties; for there is not only an absence of express delegation of authority to the treaty-making power, which alone would suffice to prevent the exercise of such authority, but there is the implied prohibition resulting from the fact that all duty on the subject is imposed on a different branch of the Government."

The Fallacy of the Argument exposed.

It is very singular that Mr. Benjamin should have suddenly discovered that the Confederate treaty-making power is smitten with such a paralysis on the subject of the foreign slave trade, when it has already entered into stipulations with foreign Governments on other subjects which, according to the Confederate "compact," are remitted to the jurisdiction of Congress. It has acceded to three out of the four propositions embraced in the Paris declaration, which establishes among the Powers so acceding to that declaration certain rules of maritime law in time of war, notwithstanding the Confederate Constitution expressly contains the following provisions: "*The Congress* shall have power to define and punish piracies and felonies committed on the high seas, and offences against the law of nations; to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water." Mr. Benjamin's associates seem to have found no impediments in these constitutional provisions when they accepted the limitations fixed by the Paris declaration on certain points, coming under powers delegated to the Confederate Congress neither more nor less fully than the power requiring that Congress to prohibit the foreign slave trade. Why does the treaty-making power of the so-called Confederate States shrink from entering into compacts with foreign States on subjects over which the Congress has more or less of control, only when slavery is called in question? Is it because of a determined but a secret purpose to leave *the States* individually free to revive the trade, should the Confederate authorities succeed in establishing their independence?

It is difficult to conceive any other solid reason against such an engagement as Mr. Benjamin repels on grounds so sophistical, and which have been already practically undermined by earlier negotiations.

And in the face of such a singular sensitiveness on this topic, it is refreshing to mark Mr. Benjamin's assurance when he holds the following language:

"While it is totally beneath the dignity of this Government to give assurances for the purpose of vindicating itself from any unworthy suspicions of its good faith on this subject that may be

disseminated by the agents of the United States, it may not be improper that you should point out *the superior efficacy of our constitutional provision to any treaty stipulations we could make.*"

The Secret Purpose of the Insurgents to revive the Foreign Slave Trade, and why it is desired to avoid any Stipulations with Foreign Governments against it.

Foreign Governments which may for any reason have their suspicions aroused (and they are likely to be more than ever aroused by the publication of this despatch), are exhorted to put their faith in the stability of the Confederate Constitution, which less than three years ago was founded by revolutionary agitators on the sovereign and independent right of the separate States to secede from the National Government at their will and pleasure. It raises an involuntary smile to find the advocate of such a polity instructing Mr. Commissioner Lamar to say to foreign Governments that the Confederate Constitution, in this matter of re-opening the foreign slave trade, could not be changed, unless by an approach to unanimity, or without the destruction of the Confederate Government. For, in the absence of any foreign engagements binding the Confederate Government, and through it the States represented by it, not to re-establish the foreign slave trade, nothing could be easier than for any State, which desired to revive this infamous traffic, to do so by exercising the right of "peaceable secession." But this is not all. In the absence of any such engagements, it would not be difficult for a party in the Confederate States, supposing their independence achieved, to set on foot an agitation for the restoration of the slave trade with Africa. Nor is it just to say, as Mr. Benjamin does, that "even should it be possible hereafter to procure the consent of the number of States necessary to change it, [the constitutional prohibition of the foreign slave trade], the forms and delays designedly interposed by the framers to check rash innovations, would give ample time for the most mature deliberation and for strenuous resistance on the part of those opposed to such change." For what are the provisions of the Confederate Constitution on the score of amendments? They provide that "upon the demand of *any three States* in their

several Conventions, the Congress shall summon a Convention of all the States to take into consideration such amendments to the Constitution as the said States shall concur in suggesting at the time when the said demand is made." If, therefore, at any time, any three States of the "Southern Confederacy," as established under the Confederate Constitution, *and unbound by foreign engagements on the subject*, should desire to revive the foreign slave trade, they could propose this amendment as the condition of their continued allegiance to that "compact;" and failing to carry their point with the acquiescence of their sister States, they could at least withdraw without question, and found not only a slaveholding Confederacy, but a Confederacy built on the institutes of the foreign slave trade. These are the logical results of the secession polity and principles commended by Mr. Benjamin to the favorable consideration of European Governments. Who can wonder, therefore, that, in the closing portion of his private despatch to Mr. Lamar, the Confederate Secretary, is reduced to the necessity of significantly saying that "after all it is scarcely the part of wisdom to attempt to impose restraint on the actions and conduct of men for all future time." And what will be the response he is likely to receive from foreign Governments, when, in the very act of refusing to enter into "any agreements, treaties, or stipulations" pledging the Confederate States not to revive the African slave trade, he is bold to say that "a just and generous confidence in their good faith on this subject," exhibited by friendly Powers, will be far more efficacious than persistent efforts to procure solemn engagements under the sanction of international and reciprocal obligation? He takes away the grounds of this "just and generous confidence" in the very act of claiming it for his political associates.

The Argument further Exhibited.

[From the National Intelligencer of April 2, 1863.]

When Mr. Benjamin, the Confederate Secretary of State, was called to pen the despatch to Mr. Commissioner Lamar, which we published on Tuesday last, assigning the grounds on which the Richmond authorities must decline to enter into any treaty engagements with foreign nations against the African slave trade,

he seems to have been painfully sensible of the difficult and delicate task before him. Accordingly, we find him putting forward, in advance of his particular instructions under this head, a series of political abstractions to serve as the cover of his demonstration; much as a General sometimes throws out a cloud of skirmishers to mask the real force and direction of his movements.

It being prudently determined by his associates to avoid any "entangling alliances" with European Powers on the subject of the foreign slave trade, Mr. Benjamin resorts, in the first place, to that species of political generalization in which the Southern politicians have always so greatly excelled, whenever they desired to show that anything which they wanted to do was constitutional, or anything that they did not want to have done was unconstitutional. By "construction construed" he seeks to show that in the Confederate Constitution, among all its categories of powers "delegated," "refrained from," exhausted by "direct agreement" among the States, and "reserved to the States respectively, or to the people thereof," there is no category which would embrace the precise case of a treaty pledging the Confederate Government, or through it the Confederate States, not to revive the African slave trade. Foreign nations may think such an engagement very proper, or even necessary, under the circumstances, but they are met at the threshold with "constitutional difficulties." As Aristotle had his "categories," so Mr. Benjamin has his; and, according to his metaphysics, the powers of the Confederate Government are separated into classes as follows, viz.:

"1st. Such powers as the States delegate to the General Government.

"2d. Such powers as the States agree to refrain from exercising, although they do not delegate them to the General Government.

"3d. Such powers as the States, without delegating them to the General Government, thought proper to exercise by direct agreement between themselves contained in the Constitution.

"4th. All remaining powers of sovereignty; which, not being delegated to the Confederate States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people thereof."

These categories seem to be invented simply for the purpose of showing that the case of a treaty with foreign nations containing stipulations against the slave trade is not embraced within the "terms of the Confederate Constitution." Now, let us see what are the constitutional provisions from which Mr. Benjamin extorts this negative pregnant. The Confederate "compact" declares as follows:

"The importation of negroes of the African race from any foreign country other than the slaveholding States and Territories of the United States of America, is hereby prohibited; and Congress is required to pass such laws as shall effectively prevent the same.

"The Congress shall also have power to prohibit the introduction of slaves from any State not a member of or Territory not belonging to this Confederacy."

It is in the face of such grants of power that Mr. Benjamin argues as follows:

"It will thus be seen that no power is delegated to the Confederate Government over this subject, but that it is included in the third class above referred to, of powers exercised directly by the States. It is true that the *duty* is imposed on *Congress* to pass laws and render effectual the prohibition above quoted. But this very imposition of a duty on *Congress* is the strongest proof of the absence of power in the President and Senate alone, who are vested with authority to make treaties. In a word, as the only provision on the subject directs the two branches of the Legislative Department, in connection with the President, to pass *laws* on this subject, it is out of the power of the President, aided by one branch of the Legislative Department, to control the same subject by treaties; for there is not only an absence of express delegation of authority to the treaty-making power, which alone would suffice to prevent the exercise of such authority, but there is the implied prohibition resulting from the fact that all duty on the subject is imposed on a different branch of the Government."

The Sophistry of the Argument Demonstrated.

The Confederate Constitution, like that of the United States, declares that "all treaties made, or which shall be made under the authority of the Confederate States, shall be the supreme law of the land." By virtue of such a provision it has been the uniform practice of the President and Senate of the United States to form treaties with foreign nations containing stipulations on many subjects, which, under the appointments of the Constitution, are also regulated by Congress. For instance, the Constitution of the United States (and the Confederate Constitution has the same provisions under this head) declares that "Congress shall have power to regulate commerce with foreign nations." Yet nothing is more common than for the Senate to confirm treaties containing stipulations, as to the exchange of productions and the rates of imposts, which are in the nature of *commercial regulations*. Southern politicians especially favored the "Reciprocity Treaty," which now regulates the commercial intercourse between the United States and Canada. Yet, if the logic of Mr. Benjamin is sound, that engagement is unconstitutional. And if, under the Confederate Constitution, "treaties of amity and commerce," may be constitutionally formed, notwithstanding the delegation to Congress of the power of regulating commerce, it is equally true that a treaty might be formed corroborating by reciprocal and international obligations that prohibition of the slave trade which is "required" at the hands of Congress by the terms of the Confederate Constitution. For the provision which "requires" the Confederate Congress to "pass such laws as shall effectively prevent" the foreign slave trade, is a plenary grant of power, which no more precludes a treaty engagement on the same subject than the plenary and exclusive grant of the power, which authorizes the Confederate Congress "to regulate commerce," would preclude the ratification by the Confederate Senate of commercial treaties between foreign nations and the Confederate States, should the latter ever be recognized by the former.

The Irresistible Inference.

Since, then, we cannot find in the terms of the Confederate Constitution, or even in the categories reduced from its text by Mr. Benjamin, any sufficient explanation of the refusal on the part of the insurgent authorities to bind themselves or the States they represent, by any treaty engagements on the subject of the foreign slave trade, we are compelled to find the secret of this prudential reserve in some ulterior purpose. And what can this purpose be, other than to leave the revival of the African slave trade an open question; which, *in the absence of any treaty stipulations with foreign nations*, may be decided according to the wishes and views of a party already existing in the Seceded States, and one which, more than any other, precipitated the Cotton States into revolution? The restless activity and the zeal of this fanatical pro-slavery party in the Southern States are known to all from the unfortunate success which has attended their propagandism of disunion ideas, in the interest, as they conceived, of a political and economical empire to be founded on compulsory labor.

The Present Purpose of the Insurgents to Revive the Slave Trade Clearly Prefigured at the Outbreak of the Rebellion.

As at once expressing the present opinions and prefiguring the future aspirations of this party at the South, we may recall to the recollection of our readers the exposition of its principles and policy given with great elaboration only two years ago by one of its recognized champions. We allude to the Hon. L. W. Spratt, of South Carolina, who, in the month of February, 1861, while as yet the prohibition of the foreign slave trade as embodied in the Confederate Constitution was awaiting ratification, addressed to the Hon. Mr. Perkins, of Louisiana, a very able letter in opposition to its retention in the Confederate compact.

The right of Mr. Spratt to speak for his party at the South will not be denied by any. The prominent part he took in the steps by which the secession movement was initiated, the confidence bestowed upon him by the people of Charleston in electing him, with such unanimity, to a seat in the South Carolina Secession

Convention, and the marked honor conferred upon him by that Convention in deputing him as one of the Commissioners appointed to interpret the action of the Palmetto State before the Convention of Florida (the first which met after that of South Carolina), are all so many titles by which he may assume to speak with authority in expounding the purport and bearing of the civil revolution to which he so largely contributed.

Let us see, then, what those principles were as he understood them; and which, however overlaid for a time by prudential reasons, would, he predicted, eventually win their way to triumph: though it might be by another agitation, leading to another revolution in the heart of the Confederate States. We cite from his letter as follows. [It may be found at length in the National Intelligencer of February 19, 1861, having originally appeared in the Charleston Mercury of February 13th:]

“From the abstract of the Constitution for the Provisional Government, it appears that the slave trade, except with the Slave States of North America, shall be prohibited. The Congress, not content with the laws of the late United States against it, which, it is to be presumed, were readopted, have unalterably fixed the subject by a provision of the Constitution. That provision, for reasons equally conclusive, will doubtless pass into the Constitution of the Permanent Government. The prohibition, therefore, will no longer be a question of policy, but will be a cardinal principle of the Southern Confederacy. It will not be a question for the several States, in view of any peculiarity in their circumstances and condition, but will be fixed by a paramount power, *which nothing but another revolution can overturn.*”

“It thus appears that the contest is not ended with a dissolution of the Union, and that the agents of that contest still exist within the limits of the Southern States. The causes that have contributed to the defeat of slavery still occur; our slaves are still drawn off by higher prices to the West. There is still foreign pauper labor ready to supply their place. Maryland, Virginia, Kentucky, Missouri, possibly Tennessee and North Carolina may lose their slaves, as New York, Pennsylvania, and New Jersey have done. In that condition they must recommence the contest. There is no avoiding that necessity. The systems cannot mix; and thus it is that slavery, like the Thracian horse returning from the field of victory, still bears a master on his back; and, having achieved one revolution to escape democracy at the North, it must still achieve

another to escape it at the South. That it will ultimately triumph none can doubt."

"If you shall commence by ignoring slavery, or shall be content to edge it on by indirection; if you shall exhibit care but for a Republic, respect but for a democracy; if you shall stipulate for the toleration of slavery as an existing evil by admitting assumptions to its prejudice and restrictions to its power and progress, you reinaugurate the blunder of 1789; you will combine States, whether true or not to slavery; you will have no tests of faith; some will find it to their interests to abandon it; slave labor will be fettered; hireling labor will be free; *your Confederacy is again divided into antagonistic societies; the irrepressible conflict is again commenced*; and as slavery can sustain the structure of a stable government, and will sustain such structure, *and as it will sustain no structure but its own, another revolution comes—but whether in the order and propriety of this, is gravely to be doubted.*"

"Then why adopt this measure? Is it that Virginia and the other Border States require it? They may require it now, *but is it certain they will continue to require it?* Virginia and the rest have never yet regarded slavery as a normal institution of society. They have regarded the slave as property, but not slavery as a relation. They have treated it as a *prostitution*, but have never yet *espoused* it. Their men of intellect have exhibited enlightened views upon this subject, but their politicians who have held the public ear have ever presented it as a thing of dollars, and to be fought for if need be, but not to be cherished and perpetuated. *And is it certain that when better opinions shall prevail; that when they join, if they shall join, a Slave Republic, a Republic to perpetuate the institution, when there shall be less inducement to sell their slaves, and the assurance that when they shall sell them they will fall under the rule of a democracy which must unfit them for association in a Slave Confederacy—the people of these States may not solicit an increase of slaves?* And is it policy to preclude the possibility of such an increase?"

"*The people of the Cotton States want labor; they know that whites and slaves cannot work together. They have no thought of abandoning their slaves that they may get white labor; and they want slaves therefore; and they will have them—from the Seaboard States, if the slave trade be not opened; and they cannot heartily embrace a policy which, while it will tend to degrade the Seaboard States to the condition of a democracy, will compel them to pay double and treble price, for their labor.*"

"We have no seamen for our commerce, if we had it, and no opera-

tives for the arts; but it is not for that I now oppose restrictions on the slave trade. I oppose them from the wish to emancipate our institution. *I regard the slave trade as the test of its integrity. If that be right, then slavery is right, but not without*; and I have been too clear in my perceptions of the claims of that great institution—too assured of the failure of antagonistic democracy, too convinced the one presents the conditions of social order, too convinced the other does not, and too convinced, therefore, that the one must stand while the other falls, to abate my efforts or pretermitt the means by which it may be brought to recognition and establishment. Believing, then, that this is a test of slavery, and that the institution cannot be right if the trade be not, *I regard the constitutional prohibition as a great calamity.*"

"Opinions, when merely true, move slowly; but when approved, acquire proclivity. Those as to the right of slavery have been true merely so far, but they came rapidly to culmination. I was the single advocate of the slave trade in 1858; *it is now the question of the time.* Many of us remember when we heard slavery first declared to be the normal constitution of society: few now will dare to disaffirm it. Those opinions now roll on; they are now not only true but are coming to be trusted; they have moved the structure of the State, and men who will not take the impulse and advance must perish in the track of their advancement. The members of your Convention may misdirect the movement—they may impede the movement—*they may so divert it that another revolution may be necessary*; but if necessarily that other revolution comes, slavery will stand serene, erect, aloft, unquestioned as to its rights or its integrity, at some points within the present limits of the Southern States; and it is only for present actors to determine whether they will contribute or be crushed to that result.

"I hope you will pardon this communication; it is too long, but I have not had time to make it shorter. I hope also you will find it consistent with your views to urge the policy I have endeavored to advance. *If the clause be carried into the permanent Government, our whole movement is defeated.* It will abolitionize the Border Slave States—it will brand our institution. Slavery cannot share a government with democracy—it cannot bear a brand upon it: *thence another revolution. It may be painful, but we must make it.*"

If the Confederate States should succeed in establishing their independence we do not doubt that the restless men who were the leaders of the secession revolt would speedily commence just such an agitation as that foreshadowed by Mr. Spratt. But if,

in the meantime, the "Confederate Government," assuming to represent the "Confederate States," should bind those States by treaty stipulations with foreign Governments, pledging them not to revive the foreign slave trade, who does not see that the contemplated movement would be hedged about with embarrassments and difficulties springing from such an "entangling alliance?" And is it hazardous or unjust to suppose that considerations like these may have had more to do in dictating the recent despatch of Mr. Benjamin than any peculiar distribution of the political powers conferred by the Confederate Constitution?

A Confirmation of the Purpose to Revive the Slave Trade.

[From the National Intelligencer of April 25th.]

DECLARATIONS OF MR. SLIDELL.

M. Emile de Girardin, the well-known publicist, of Paris, stated some time ago that, in a conversation with Mr. Slidell, the Confederate "Commissioner," in that city, the latter had assured him that "the South was disposed to disencumber itself of slavery, which was rather injurious than advantageous to it." This statement was reproduced by M. F. Gaillardet in his regular correspondence from Paris with the *New York Courier des Etats-Unis*.

The paragraph having been recently brought to the notice of Mr. Slidell, he has taken exception to the report of his conversation with M. Girardin, and, in his last letter, under date of April 3, M. Gaillardet makes the following rectifications:

"Mr. Slidell acknowledges that he said to M. Girardin that the slaves, once free, must leave the South, which would not tolerate a mingling of the two races, and that the deportation of the negroes was at once the condition and the difficulty of their emancipation. But he has not declared that 'the South was disposed to disencumber itself of slavery, which was more injurious than advantageous to it.' Mr. Slidell could not have made such a declaration for three reasons: the first is, that he has no authority to make it, and that the Government at Richmond would no more have it than he, as the question of emancipation can be raised only by the several States, and not by the Central Government. The second reason is, that if slavery is destined

to disappear one day, or to be modified like all human institutions, this would not take place on the morrow of a revolution, *when the first necessity of the South will be to repair its losses.* The third reason is, that the South means to decide this question in full liberty, by its sole authority, and will not make it, in any event, the condition of its recognition by Europe."

The last two reasons, if read in the light of Mr. Benjamin's letter to Mr. Commissioner Lamar, instructing him not to enter into any stipulations with the Russian Government *against the slave trade*, would seem to be significant of a settled purpose on the part of the Richmond authorities to leave an opening for the revival of that traffic should the Seceded States succeed in establishing their independence, and judge it necessary or expedient "to repair their losses" in the matter of slaves by fresh importations from Africa. This "repair of losses," says Mr. Slidell, will be "the first necessity of the South" on the morrow of its success in converting a revolt into a "revolution." And as he makes this statement in connection with slavery and in presence of the known fact that the Richmond authorities refuse to bind the Seceded States by any stipulations with foreign Powers not to revive the slave trade, it would seem that the inference suggested by his language flows naturally from the circumstances under which this language is held as well as from its own purport. •



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